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Supreme Court of the United States

OCTOBER TERM, 1954

No. 821 107

450 ACRES OF LAND, MORE OR LESS, KNOWN AS BARNWELL ISLAND, SITUATE IN CHATHAM COUNTY, GEORGIA, and E. B. PINCKNEY, ET AL., PETITIONERS,

versus

UNITED STATES OF AMERICA ET AL., RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

HENRY HAMMER,
Columbia, S. C.,

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Supreme Court of the United States

OCTOBER TERM, 1954

No. .....

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450 ACRES OF LAND, MORE OR LESS, KNOWN AS BARNWELL ISLAND, SITUATE IN CHATHAM COUNTY, GEORGIA, and E. B. PINCKNEY, ET AL., PETITIONERS,

versus

UNITED STATES OF AMERICA ET AL., RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

The petitioners pray that a writ of certiorari issue to review the decision and judgment of the United States Court of Appeals for the Fifth Circuit, dated and entered in this case on March 22, 1955.

OPINIONS BELOW

The opinions and orders of the District Court (R. 32, 65, 75) are unreported and are printed in the appendix, *infra*, pp. 9-14. The opinion of the Court of Appeals (R. 97) is not yet reported and is printed in the appendix, *infra*, pp. 15-21.

JURISDICTION

The judgment of the Court of Appeals vas entered on the 22nd day of March, 1955. Petition for rehearing (Appendix 21-24) was denied on the 19th day of April, 1955 (R. 115). The jurisdiction of this Court is invoked under the provisions of 28 U. S. C., Section 1254.

QUESTION PRESENTED

In a condemnation proceeding to determine the jurisdiction of the District Court in which the proceeding is instituted, is evidence that a State of the Union, other than the State in which the District Court is located, assesses taxes on the lands subject to the condemnation proceeding, collects taxes thereon, seizes and sells same for nonpayment of taxes, exercises criminal jurisdiction over said lands and otherwise exercises dominion and control over said lands for a long and continuous period of time, to which the State in which the action is brought acquiesces and does not assert any claim to the said lands, sufficient to warrant the application of the principle of prescription and acquiescence laid down in *Arkansas v. Tennessee*, 310 U. S. 563, and thus support the District Court in holding that it has no jurisdiction over such condemnation proceeding?

STATEMENT

The instant case is a condemnation proceeding instituted by the United States of America in the United States District Court for he Southern District of Georgia to acquire a permanent easement under the power of eminent domain over the lands in controversy. Petitioners, the owners of the lands in question, filed a motion to dismiss the action because the United States District Court for the Southern District of Georgia was without jurisdiction by reason of the fact that the lands which are the subject mat-

ter of the condemnation proceeding are located in the State of South Carolina (R. 7). The District Judge, after hearing the testimony and argument of counsel, in applying the doctrine of prescription and acquiescence, held that the lands in controversy were within the borders of the State of South Carolina, and consequently dismissed the action (R. 32).

Respondent, United States of America, thereafter applied for a new trial on the motion to dismiss, whereupon, upon application, the District Judge permitted respondent, State of Georgia, to intervene as a party in the proceedings (R. 36).

Thereafter, it was agreed between respondent, United States of America, and petitioners that for the purpose of the hearing of the motion for new trial the Court may consider additional evidence agreed upon in lieu of presenting witnesses, such evidence having been submitted to the Court with a stipulation signed by the attorneys for the Government and petitioners (R. 76-86). Upon consideration of the evidence the District Judge dismissed the action (R. 65-70) and denied the motion for new trial (R. 75).

Upon appeal, the Court below reversed the Order of the District Judge and remanded the case to the District Court with directions to proceed with the condemnation proceeding. Petition for rehearing was filed by the petioners (appendix 2*l*.) and denied by the Court below on April 19, 1955.

REASONS FOR GRANTING THE WRIT

1. The decision herein is not in accord with the applicable decisions of this Court:

The decision in the Court below is in direct conflict with the holding by this Court in *Arkansas v. Tennessee*, 310 U. S. 563 that long acquiescence in the assertion of a

particular boundary and the exercise of dominion and sovereignty over the territory within a State, should be accepted as conclusive that such property is within the borders of the State which exercises the dominion and sovereignty.

2. **The evidence of long acquiescence by the State of Georgia of the exercise of dominion and sovereignty by the State of South Carolina over the lands in question warranted the District Court in holding that such lands were within the borders of South Carolina under the principle of prescription and acquiescence:**

The evidence of record shows that the State of South Carolina since 1875 assessed and collected taxes on the lands in question (R. 22, 43, Exhibit B); the State of South Carolina seized and sold the lands in question for the nonpayment of taxes (R. 40); the State of South Carolina exercised criminal jurisdiction over the said lands (R. 81-82); the United States of America, prior to the institution of the condemnation proceeding, negotiated a lease of the said lands in which it recognized them as being in South Carolina (R. 29); the State of Georgia returned to South Carolina for prosecution criminals who committed offenses on the lands in question (R. 41, 82); and the State of Georgia never levied taxes on the said lands nor ever asserted any claim to them prior to its intervention as a party in the condemnation proceeding instituted by the United States of America (R. 103, 104).

On the basis of the foregoing evidence of record the District Court, in applying the doctrine of prescription and acquiescence enunciated in *Arkansas v. Tennessee,* 310 U. S. 563, held that it had no jurisdiction over the condemnation proceeding as the lands in controversy were within the borders of South Carolina.

Therefore, it is respectfully submitted that the Court below, in reversing the District Court and holding that the principle of prescription and acquiescence is not applicable here, violated the rule enunciated by this Court in *Arkansas v. Tennessee,* 310 U. S. 563.

CONCLUSION

For the foregoing reasons this petition for writ of certiorari should be granted.

Respectfully submitted,

HENRY HAMMER,

HENRY H. EDENS,

CLYDE A. ELTZROTH,

RANDOLPH MURDAUGH,

Attorneys for Petitioners.

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ORDER OF DISTRICT JUDGE, DATED FEBRUARY 18, 1953

The above entitled action came on for hearing before this Court on the 9th day of February, 1953, on motion to dismiss for lack of jurisdiction, and the Court finds:

1. From the evidence in this case the land known as Barnwell Island and the subject of litigation in this case is attached to the real estate located in South Carolina and has been so attached for many years.

2. The land has been in the undisputed actual possession of the defendants in this case for over ten years.

3. The defendant, E. B. Pinckney has paid taxes on this property for the past ten years to taxing authorities of the State of South Carolina and has never paid any taxes to the taxing authorities of the State of Georgia.

4. From the evidence the interest of the plaintiff in this case is amply protected by the hearing of this suit in either South Carolina or Georgia for the Government has the right to condemn the property and the property owner will receive just compensation whether the case is tried in the South Carolina or the Georgia Courts, therefore this suit seems much ado about nothing.

It is ordered that this action be, and the same is hereby dismissed.

This the 18th day of February, 1953.

F. M. SCARLETT,
United States District Court.

ORDER AND JUDGMENT OF DISTRICT COURT DATED OCTOBER 28, 1953

The sole question involved in this proceeding is whether the principle of prescription and acquiescence is applicable in determining the boundary between States.

At the hearing of defendant's motion for dismissal of the Government's case on February 9, 1953, the Government introduced in evidence a copy of the Beaufort Convention of 1787 whereby all islands in the Savannah River were reserved to the State of Georgia. The Government likewise introduced certain maps which substantiated their contention.

It was admitted by both sides that Barnwell Island has been connected with other lands in South Carolina for many years. The Government contends however, it became connected by Acts of the Government relative to improving the harbor.

The Court could not understand why the Government was anxious to try this case in Georgia when it would inconvenience all the witnesses who reside near Barnwell Island by coming to Savannah to Court and the owner would receive just compensation for the taking whether the case was tried in South Carolina or Georgia until it received a brief in this case from the Savannah District Authority who stated they were a party of interest but not a party to the record, and it would appear from that brief that the City of Savannah desires to obtain this property for soilage operation in the harbor.

This Court, of course, is not concerned with any agreement between the United States of America and the City of Savannah but it is interested in seeing that the owner of the property is paid the market value for the same.

The Court is of the opinion that the State of Georgia did acquire title to this property at the Beaufort Convention but holds that the principle of prescription and acquiescence is applicable in determining the boundary between the States and from evidence submitted including the affidavit of the Sheriff of the County, where the land is located, which is attached to stipulation of Counsel in this case,

and which is hereto attached, which is uncontradicted, this property is in the State of South Carolina, and the Court where this land is located has jurisdiction to determine the market value of this property.

The Court is relying upon the decision *Arkansas v. Tennessee,* 310 U. S. Reports, page 563, which states:

> "1. Land on the Arkansas side of the Mississippi River was cut off by a sudden change of the river's course, in 1821 and became attached to the Tennessee side. Held:
>
> (1) That it subsequently became a part of Tennessee as the result of long and continuous exercise by that State of dominion and jurisdiction over it with acquiescence of Arkansas. P. 566.
>
> (2) That an addition to this area, caused by gradual accretion from the river, was also subject to the Tennessee jurisdiction. P. 572.
>
> 2. The principle of prescription and acquiescence is applicable in the determination of boundaries between States. P. 569.
>
> 3. The rule of the thalweg rests upon equitable consideration and it intended to safeguard to each State equality of access and right of navigation in the Stream. The rule yields to the doctrine that a boundary is unaltered by an avulsion; and in such case, in the absence of prescription, the boundary no longer follows the thalweg but remains at the original line. P. 571.
>
> 4. The doctrine as to the effect of an avulsion may become inapplicable when it is established that there has been acquiescence in a long continued and uninterrupted assertion of dominion and jurisdiction over the area affected. P. 571.
>
> 5. The question whether a State has acquired political jurisdiction by prescription is not affected by the circumstances that the title to the area is in the United States, such title not being disputed.

Not deciding whether or not E. B. Pinckney, the claimant, is entitled to the market value of this property, the

Court did take in consideration the laws of South Carolina pertaining to prescription together with the affidavit of the Sheriff and E. B. Pinckney that E. B. Pinckney received a deed to this property in 1936.

Section 10-2421, Code of Laws of South Carolina, 1952, is as follows:

> "When possession presumed; when occupation deemed under legal title. In every action for the recovery of real property or the possession thereof the person establishing a legal title to the premises shall be presumed to have been possessed thereof within the time required by law. The occupation of such premises by any other person shall be deemed to have been under and in subordination to the legal title unless it appear that such premises have been held and possessed adversely to such legal title for ten years before the commencement of such action."

Section 10-2422, Code of Laws of South Carolina, 1953, is as follows:

> "Occupation under written instrument, etc. Whenever it shall appear (1) that the occupant or those under whom he claims entered into the possession of premises under claim of title, exclusive of any other right, founding such claim upon a written instrument as being a conveyance of the premises in question or upon the decree or judgment of a competent court and (2) that there has been a continued occupation and possession of the premises, or of some part of such premises, included in such instrument, decree or judgment under such claim for ten years, the premises so included shall be deemed to have been held adversely, except that when the premises so included consist of a tract divided into lots the possession of one lot shall not be deemed a possession of any other lot of the same tract."

Section 10-2423, Code of Laws of South Carolina, 1952, is as follows:

> "What constitutes adverse possession under written instrument etc. For the purpose of constituting an adverse possession by any person claiming a title founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied in the following cases:
>
> (1) When it has been usually cultivated or improved;
>
> (2) When it has been protected by a substantial enclosure;
>
> (3) When, although not enclosed, it has been used for the supply of fuel or of fencing timber, for the purposes of husbandry or for the ordinary use of the occupant; and
>
> (4) When a known farm or a single lot has been partly improved the portion of such farm or lot that may have been left not cleared or not enclosed, according to the usual course and custom of the adjoining country, shall be deemed to have been occupied for the same length of time as the part improved and cultivated."

Section 10-2424, Code of Laws of South Carolina, 1952, is as follows:

> "Premises held adversely but not under written instrument. When it shall appear that there has been an actual continued occupation of premises under a claim of title, exclusive of any other right but not founded upon a written instrument or a judgment or decree, the premises so actually occupied, and not other, shall be deemed to have been held adversely".

Section 10-2425, Code of Laws of South Carolina, 1952, is as follows:

> "Adverse possession under claim of title not written. For the purpose of constituting an adverse possession by a person claiming title not founded upon a written instrument or a judgment or decree, land shall be

deemed to have been possessed in the following cases only:

(1) When it has been protected by a substantial enclosure; and

(2) When it has been usually cultivated or improved."

The costs to be assessed in accordance with law provided in such cases as the case in the United States District Court for the Southern District of Georgia is hereby dismissed.

The United States of America, of course, is entitled to file its suit for condemnation in the proper Court in South Carolina.

This the 28th day of October, 1953.

(s) F. M. SCARLETT,
United States District Judge,
Southern District of Georgia.

ORDER OF DISTRICT JUDGE, DATED NOVEMBER 23, 1953

It appearing that the above proceeding was dismissed by Order of the Court, dated February 18, 1953, and the United States of America having filed a motion for a new trial and the Court having rendered an opinion and judgment thereon on the 28th day of October, 1953, now therefore

IT IS HEREBY ORDERED That the motion of the United States of America for a new trial be and the same is hereby denied.

Dated: the 23rd day of November, 1953.

(s) F. M. SCARLETT,
United States District Court,
Southern District of Georgia.

DECISION OF COURT OF APPEALS FOR FIFTH CIRCUIT REVERSING CASE

(Decided March 22, 1955)

Before HOLMES, BORAH, and RUSSELL, Circuit Judges.

BORAH, Circuit Judge: This is an appeal from an order of the District Court for the Southern District of Georgia dismissing a condemnation proceeding which had been brought by the United States to acquire a perpetual and assignable easement to enter upon, occupy, and use certain lands known as Barnwell Island for the deposit of spoil or other matters excavated in the construction, improvement and maintenance of Savannah Harbor.

The tract or parcel of land sought to be condemned was described as lying and being in Chatham County, Georgia. Among those listed in the complaint as having or claiming an interest in the property were E. B. Pinckney, the States of South Carolina and Georgia, the Sheriff of Beaufort County, South Carolina, the Forfeited Land Commission of that county and the Sheriff of Chatham County, Georgia. Of these named, Pinckney was the only one to enter an appearance and he moved to dismiss the complaint on the ground that the court lacked jurisdiction by reason of the fact that the land involved was located in the State of South Carolina.

At the hearing which was had on the motion to dismiss, it was admitted that Barnwell Island was originally an island in the Savannah River and that for many years it has been connected with the South Carolina shore. Pinckney, who claimed that he was the owner in fee simple of the property, testified that he had paid taxes thereon for the past ten years in Beaufort County, South Carolina and had never paid any taxes to the taxing authorities of the State of Georgia. The Government, in turn, introduced in

evidence a copy of the Beaufort Convention of 1787 whereby all islands in he Savannah River were reserved to the State of Georgia. In addition, the Government also introduced certain maps in evidence which substantiated their contention. When the evidence was closed the court concluded the hearing with an expression of its views [1] and thereafter and in keeping therewith it entered a formal order dismissing the Government's complaint.

Following the entry of the order of dismissal the Government moved for a new trial and the State of Georgia applied for leave to intervene as a party to the proceedings on the grounds (1) that title to the islands in the Savannah River was confirmed in the State of Georgia in 1789 by the terms of the Beaufort Convention, and (2) that the State had not since that time, granted, ceded, sold, nor otherwise disposed of said lands. The intervention was allowed and the motion for a new trial was set down for hearing. After several continuances and on the day when the motion was finally scheduled to be heard, and pursuant to suggestions made by the court, it was agreed by and between the United States and E. B. Pinckney that for the purpose of the motion for new trial and in lieu of presenting witnesses that the court should consider the stipulations agreed upon [2] as additional evidence on the question of jurisdiction. Thereafter the court rendered a judgment sustaining the order under review and subsequently it entered a formal order denying the motion for a new trial.

In its "judgment" which was in the form of an opinion the court below said:

---

[1] "The Court: Well, I think I have got it in my mind. I am going back to Georgia law where a man has been in possession of property for seven years under an adverse claim and stays in possession and cultivates it. I still don't see the necessity of this case. The government is going to take the property and pay for it, whether it is in Georgia or in South Carolina. I am going to decide with South Carolina. You can take your order."

[2] The State-intervenor was not a party to this agreement.

"The Court is of the opinion that the State of Georgia did acquire title to this property at the Beaufort Convention but holds that the principle of prescription and acquiescence is applicable in determining the boundary between the States and from evidence submitted including the affidavit of the Sheriff of the County, where the land is located, which is attached to stipulation of Counsel in this case, and which is hereto attached, which is uncontradicted, this property is in the State of South Carolina, and the Court where this land is located has jurisdiction to determine the market value of this property."

The trial court thus recognized that title to Barnwell Island was confirmed in the State of Georgia by the terms of the Beaufort Convention. But, on the authority of *Arkansas v. Tennessee,* 310 U. S. 563, it justified dismissal of the proceeding on the ground that the land in question should now be deemed to be within the boundaries of South Carolina by virtue of prescription and acquiescence on the part of Georgia in the exercise by South Carolina of dominion and jurisdiction over the described land.

In *Arkansas v. Tennessee, supra,* upon which the court below relied, the State of Arkansas brough suit against the State of Tennessee seeking a decree determining the true boundary between the States at certain points and confirming the jurisdiction and sovereignty of the State of Arkansas over the described property. Tennessee answered, contesting the claims of Arkanasas and the issues were referred to a Special Master. In his report the Master found that land which had been on the Arkansas side of the Mississippi River was cut off by a sudden change in the River's course in 1821, and had become attached to the Tennessee side. Rejecting Arkansas' claim to the land, the Supreme Court approved the Master's finding that Tennessee had continuously exercised dominion and jurisdiction over that area from the year 1826 to the time of the bringing of the

present suit and that the record showed the acquiescence of Arkansas and this assertion of dominion by Tennessee. Without undertaking to set out the facts in greater detail we deem it sufficient to say that this case is but one of many, such as *Indianna v. Kentucky*, 136 U. S. 479, 510, and *Louisiana v. Mississippi*, 202 U. S. 1, 53, in which the Supreme Court has applied the universally recognized principle of prescription and acquiescence in determining a disputed boundary between States. The combined effect of these decisions is that when a dispute as to the boundary line between two states arises, the principle of prescription and acquiescence is applicable, and when it appears that there has been long acquiescence in the possession of territory or the exercise of sovereignty, long continued acts which show recognition of a certain line as a boundary line may have controlling effect in the determination of that boundary. It is therefore clear that the principle is applicable in the case of a disputed boundary when, and only when, there is a sufficient basis of fact for its application. And this brings us to a consideration of the only identifiable evidence to which the trial judge referred, the affidavit of the Sheriff of Beaufort County.

The affidavit of the sheriff states that from the time of his induction into office in 1926, until the repeal of the Volstead Act he had gone upon the land in search of law violators and had destroyed numerous distilleries and that once in 1932 and again in 1946, he took from the City of Savannah with the assistance of its police, two persons who had committed crimes on Barnwell Island, and delivered them for trial in South Carolina where they were convicted and sentenced to the penitentiary. The affidavit of the sheriff further states that on October 6, 1935, he "went upon this land and seized same, taking exclusive possession in the name of the County of Beaufort and State of South

Carolina, upon a warranty of Execution for nonpayment of taxes assessed against same;" that to satisfy the execution the land was sold in February, 1936, to the FORFEITED LAND COMMISSION OF BEAUFORT COUNTY, SOUTH CAROLINA, and that on January 6, 1942, that Commission deeded the land to E. B. Pinckney. This statement in reference to a deed was the only evidence before the court other than Pinckney's own testimony that he had paid taxes on the land, that Pinckney has anything even purporting to be color of title to Barnwell Island. And the only comment of the trial judge in respect thereto was his statement that he "did take into consideration the laws of South Carolina pertaining to prescription together with the affidavit of the sheriff and E. B. Pinckney, that E. B. Pinckney received a deed to this property in 1936." As to this statement we point out that this record does not contain an affidavit of E. B. Pinckney and according to the sheriff's affidavit, Pinckney received the deed in 1942 and not in 1936.

In examining the record we are impressed by the circumstance that the evidence does not contain either the deed under which Pinckney asserts his title or the deed to the Forfeited Land Commission of South Carolina and in the absence of even the slightest attempt to explain their nonproduction it is certainly reasonable to indulge in the assumption that if either of them had lent support to Pinckney's claim to Barnwell Island that counsel would not have failed to introduce them in evidence. But be that as it may there is one thing that is certain and that is that there is no evidence in this record, including the sheriff's affidavit which is not specific as to description, that the Forfeited Land Commission of South Carolina ever attempted to give Pinckney or anyone else, title to any lands which now or formerly were islands in the Savannah River.

The utmost finding the evidence will support is, that claimant Pinckney and the sheriff think it did.

The boundary line between Georgia and South Carolina is not in dispute as between these sovereigns. Neither the State of South Carolina nor any official purporting to act for South Carolina has intervened, become a party, or made any appearance in this proceeding and even if Georgia could lose territory by acquiescence in an assertion of jurisdiction by South Carolina, this record contains nothing of substance to show either acquiescence or assertion. It is true that Georgia did not tax the land but there is nothing to show that this was because the State did not believe that the land was within its jurisdiction. When South Carolina sanctioned the compact it admitted in the most solemn form that the land in controversy was not within her jurisdiction and it is certainly reasonable to assume that Georgia believed it owned the land. Consequently, there was no occasion for it or any of its political subdivisions to impose a tax. On the other hand, South Carolina has not claimed jurisdiction over the land in controversy. It has not been shown that the taxes, for which the land was sold to the Forfeited Land Commission of Beaufort County, and by it to Pinckney, were imposed by the State or applied to the benefit of the State. Of little weight also are the acts of the sheriff and others on which appellee relies as showing that South Carolina asserted dominion and jurisdiction over the tract in question. There is no proof here that Georgia had knowledge of, much less that it acquiesced in, these isolated activities and it is absurd to say that a state has relinquished a right of which it is not aware. Furthermore, there is nothing here to connect the state of South Carolina with these transactions and she does not and cannot claim that she acquired any

right by virtue of these activities. Similar actions were so appraised in *Missouri v. Kentucky*, 11 Wall. 395, 402-403.

There is, there can be, no doubt that the land here involved is in the State of Georgia, Article 1 of the Beaufort Convention specifically reserved to Georgia all the islands in the Savannah River and the Supreme Court by its decision and decree in *Georgia v. South Carolina*, 257 U. S. 516, 259 U. S. 572, confirmed that reservation. It follows that the condemnation proceeding was properly brought in the court below, 28 U. S. C. Sec. 1403, and that it was erroneously dismissed for want of jurisdiction.

(Reversed and remanded.)

(Judge Russell participated in the hearing and decision of this cause, but died before the opinion was filed.)

PETITION FOR REHEARING

The petitioners pray that this Court grant a rehearing of its decision of March 22, 1955, reversing the Order of the District Court dismissing the proceedings, upon the following grounds:

1. The decision of this Court was obviously predicated upon its conclusion that there was no evidence "that the Forfeited Land Commission of South Carolina ever attempted to give Pinckney or anyone else, title to any lands which now or formerly were islands in the Savannah River". In reaching this conclusion it is respectfully submitted that this Court must have overlooked the intent and purpose of the stipulation entered into between the Government and Pinckney whereby it was solemnly agreed between them that, in lieu of presenting oral testimony and documentary evidence in open court, the contents of the affidavit of J. E. McTeer (R. 71) shall be considered as evidence. From such evidence it is clear that the land in question was sold by the State of South Carolina for the

nonpayment of taxes to the Forfeited Land Commission of Beaufort County, South Carolina, which in turn deeded the land to E. B. Pinckney.

2. The decision of this Court also appears to rest upon its conclusion that the "utmost finding the evidence will support is, that claimant Pinckney and the sheriff think" that the lands conveyed to Pinckney from the Forfeited Land Commission of South Carolina was the lands which now or formerly were islands in the Savannah River. In reaching this conclusion it is respectfully submitted that this Court must have overlooked that part of J. E. McTeer's affidavit (R. 71) in which he states that "he is familiar with a tract of land, formerly in the County of Beaufort, now in the County of Jasper since 1950 by Act of the South Carolina Legislature, commonly known as 'Barnwell Island' ". Moreover the Court must have overlooked that this land which is the subject matter of the action is known to J. E. McTeer and no question was raised in the court below as to the identity of the land in question.

3. The decision of this Court was also based upon its conclusion that there was not sufficient basis of fact for the application of the principle of prescription and acquiescence. In reaching this conclusion it is respectfully submitted that this Court must have overlooked the evidence of record showing (1) that the Sheriff of Beaufort County, which is a political sub-division of the State of South Carolina, exercised the duties of his office upon the tract in controversy by destroying numerous illegal distilleries on said tract of land (T. R. 71); (2) that the said tract of land was taken and seized by a political sub-division of the State of South Carolina upon a warrant of execution for nonpayment of taxes against said land (T. R. 72); (3) that the said land was thereafter sold to the Forfeited Land Commission of South Carolina (T. R. 72); (4) that officers

of the City of Savannah, Georgia, gave aid and assistance to South Carolina authorities in apprehending Georgia fugitives from justice who committed offenses upon the tract in question (T. R. 72, 81 and 82); (5) that Georgia authorities apprehended criminals in Georgia who were turned over to South Carolina authorities for prosecution of offenses committed on the land in question (T. R. 82); (6) that Beaufort County imposed taxes upon the land in question since 1875 (T. R. 82), and, Pinckney during the time he was in possession paid taxes on said land to the County of Beaufort, South Carolina (T. R. 23); (7) that it is a matter of notoriety and public record that the tract in question is South Carolina property (T. R. 83); (8) that no taxes were levied on the said tract in question by the State of Georgia or any of its political sub-divisions although said land was occupied and used for farming purposes; and (9) that the Government recognized the ownership of said tract of land by Pinckney and as being located in South Carolina by reason of the negotiation of a lease between it and Pinckney describing the lands as being located in South Carolina (T. R. 29).

4. The decision of this Court was also based upon its conclusion that *Arkansas v. Tennessee*, 310 U. S. 563, has no application here. In reaching this conclusion it is respectfully submitted that this Court overlooked that the Supreme Court held that evidence showing (1) the imposition of taxes on land by a particular State; (2) the maintenance by such particular State of records of assessments of taxes on said land; (3) a tax sale by officials of such particular State of said land; (4) the service of process on said land in the name of such particular State; and (5) the payment of taxes on said land to such particular State, constitutes sufficient evidence to prove exercise of dominion and jurisdiction by such State over said lands. And this

Court also must have overlooked that the Supreme Court held that the failure of a State to assert any claim to land over which another State exercises dominion and jurisdiction constitutes an acquiescence of the exercise of such dominion and jurisdiction over said land. The instant case is factually similar to *Arkansas v. Tennessee,* 310 U. S. 563, and the principle of prescription and acquiescence announced therein is thus controlling in the instant case.

For the reasons set forth above and in the brief filed by appellees it is respectfully urged that a rehearing be granted, and that upon such rehearing, the judgment of the District Court be affirmed.

Respectfully submitted,

HENRY H. EDENS,
CLYDE A. ELTZROTH,
RANDOLPH MURDAUGH,
Attorneys for Petitioners.

CERTIFICATE OF COUNSEL

We hereby certify that the foregoing petition for rehearing is presented and filed in good faith and not for delay.

HENRY H. EDENS,
CLYDE A. ELTZROTH,
RANDOLPH MURDAUGH.

ORDER DENYING REHEARING

Extract from the Minutes of April 19, 1955

UNITED STATES OF AMERICA,

No. 14990

versus

450 ACRES OF LAND, MORE OR LESS, KNOWN AS BARNWELL ISLAND, SITUATE IN CHATHAM COUNTY, GEORGIA and E. B. PINCKNEY, ET AL.

It is ordered by the Court that the petition for rehearing filed in this cause be, and the same is hereby, denied.

(Judge Russell participated in the hearing and decision of this cause but died before the opinion was filed.)

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CITATION

Case:

Georgia v. *South Carolina*, 257 U.S. 516, 259 U.S. 572 ..... 2, 3, 5

In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 107

450 ACRES OF LAND, MORE OR LESS, KNOWN AS BARNWELL ISLAND, SITUATE IN CHATHAM COUNTY, GEORGIA, AND E. B. PINCKNEY, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

While the district court did not write an opinion it expressed its views in an "Order" dismissing the Government's complaint (Pet. 9) and a "Judgment" adverse to the Government's motion for a new trial (Pet. 9-14). The opinion of the court of appeals (Pet. 15-21) is reported at 220 F. 2d 353.

JURISDICTION

The judgment of the court of appeals was entered March 22, 1955. Petition for rehearing was denied April 19, 1955 (Pet. 25). The petition for a writ of certiorari was filed May 28, 1955. The jurisdiction of this Court is invoked under 28 U. S. C. 1254(1).

QUESTION PRESENTED

Whether, on the evidence, the district court erred in finding that South Carolina had exercised dominion and sovereignty over the land condemned in this proceeding and that Georgia had acquiesced therein.

STATEMENT

The facts of this case may be summarized as follows:

On April 28, 1787, commissioners appointed by South Carolina and Georgia pursuant to Article VI of the Articles of Confederation entered into what has become known as the Beaufort Convention. Article I of the Convention provided that the boundary between the two States should be the most northern branch of the Savannah River from the sea to the junction of the Seneca and Tugaloo Rivers and thence along the most northern branch of the Tugaloo "*reserving all the islands in the said rivers Savannah and Tugalo* [sic] *to Georgia.*"[1] In the early part of the present century, boundary dis-

[1] The pertinent provision of the Beaufort Convention is quoted in *Georgia* v. *South Carolina*, 257 U.S. 516, at p. 519. The emphasis in this quotation—and in all subsequent ones—has been supplied.

putes arose between the two States. One of these was as to the ownership of islands in the Chattooga River, a westerly offshoot of the Tugaloo unknown when the Convention was executed. Georgia filed —and won—an original suit in this Court against South Carolina. *Georgia* v. *South Carolina,* 257 U. S. 516. This Court concluded (p. 523): "That islands in the Chattooga River are reserved to Georgia *as completely as are those in the Savannah or Tugaloo rivers.*" Accordingly the decree of June 5, 1922 (259 U. S. 572), provided: "That all islands formed by nature in the Chattooga river are reserved to Georgia *as completely as are those in the Savannah and Tugaloo rivers.*"

On December 11, 1952, the Government filed a petition in condemnation (R. 1-4) in the District Court for the Southern District of Georgia seeking a perpetual easement to dump dredgings from the Savannah harbor on about 450 acres of unimproved land, originally an island in the Savannah River but for a long time artificially connected with the South Carolina shore. Among those listed as "having or claiming an interest in the property" was petitioner, E. B. Pinckney, who claimed title to the land through a deed from the Forfeited Land Commission of Beaufort County, South Carolina.[2] He moved to dismiss on the ground the land lay in South Carolina (R. 6-10).

In support of the motion petitioners submitted the affidavit of J. E. McTeer, Sheriff of Beaufort

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[2] This deed was not placed in evidence.

County, South Carolina, since 1926 (R. 71-74). It states that on many occasions during the period of the Eighteenth Amendment McTeer went on the land and destroyed stills and that twice, once in 1932 and again in 1946, he took from the City of Savannah—with the assistance of its police—persons who had committed crimes on the land in question and delivered them for trials in South Carolina where they were convicted and sentenced to the penitentiary.

The affidavit also states (R. 72) that on October 6, 1935, McTeer "went upon this land and seized same, taking exclusive possession thereof in the name of the County of Beaufort and State of South Carolina, upon a warrant of Execution for non-payment [sic] of taxes assessed against same"; that to satisfy the execution the land was sold on sales day of February 1936 to the Forfeited Land Commission of Beaufort County and that on January 6, 1942, that Commission deeded the land to E. B. Pinckney.

Following a hearing (R. 11-30) the district court dismissed the proceedings for want of jurisdiction (R. 32-33). In its "judgment" (R. 65-70) the court expressed the view that while Georgia acquired title to the property at the Beaufort Convention the land was now in South Carolina by virtue of the principle of prescription and acquiescence.

When the Government moved for a new trial the State of Georgia intervened (R. 33-36). The dis-

trict court denied the motion for a new trial (R. 75) and the Government appealed (R. 88).

The Court of Appeals for the Fifth Circuit reversed and remanded the proceeding on the ground that it was properly brought in the district court for the southern district of Georgia (Pet. 15-21).

ARGUMENT

This Court has indicated that islands in the Savannah River, such as the land in question, are in Georgia. *Georgia* v. *South Carolina*, 257 U. S. 516. Nothing occurring since then has altered the situation. There is no warrant for petitioner's contention (Pet. 4) that the record shows acquiescence by Georgia in the exercise by South Carolina of "dominion and sovereignty" over the land. As the court below said (Pet. 20): "South Carolina has not claimed jurisdiction over the land in controversy. It has not been shown that the taxes, for which the land was sold to the Forfeited Land Commission of Beaufort County, and by it to Pinckney, were imposed by the State or applied to the benefit of the State. Of little weight also are the acts of the sheriff and others on which appellee relies as showing that South Carolina asserted dominion and jurisdiction over the tract in question. There is no proof here that Georgia had knowledge of, much less that it acquiesced in, these isolated activities * * *."

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

SIMON E. SOBELOFF,
Solicitor General.

PERRY W. MORTON,
Assistant Attorney General.

JOHN F. COTTER,
EDMUND B. CLARK,
Attorneys.

JUNE 1955.

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In the Supreme Court of the United States

OCTOBER TERM, 1955

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BRIEF
FOR THE STATE OF GEORGIA
IN OPPOSITION

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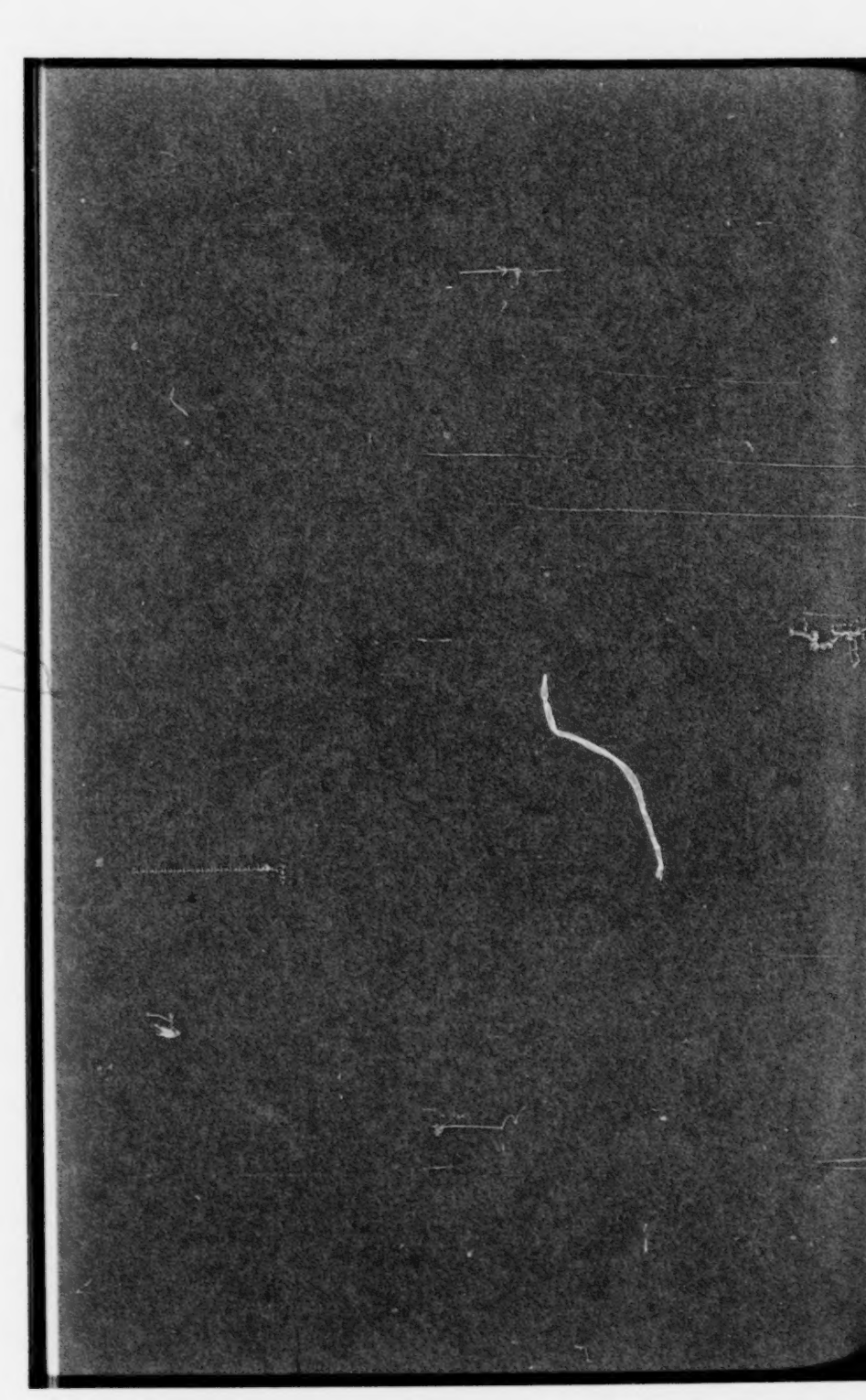
SUPPLEMENTAL TO THE BRIEF FOR THE UNITED STATES



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Opinions Below

The "judgment" of the district court dated October 28, 1953, as printed in the Appendix to the Petition does not contain the exhibit referred to therein as "hereto attached" (Pet. 11). Since the intention of the district court to incorporate this affidavit into its judgment is manifest this respondent prints said exhibit in the Appendix hereto on page 10 hereof.

The Question Presented

The State submits that the question presented to the court is correctly stated as follows:

"Whether, on a plea to the jurisdiction, the evidence required that the district court apply the principles of prescription and acquiescence in determining the boundary line between the states of Georgia and South Carolina."

The Statutes Involved

The State cites the following statutes (and a convention between the states of Georgia and South Carolina) as pertinent under Supreme Court Rule 23 (d).

28 U.S.C., sec. 1403, provides:

"Proceedings to condemn real estate for the use of the United States or its departments or agencies shall be brought in the district court of the district where the land is located . . ."

The State cites as the specific authority for the taking the Act of Congress (Rivers and Harbors Act) approved August 8, 1917, c. 49, Par. 9; 40 Stat. 267; 33 U.S.C. 593, which states:

> "Whenever any State, or any reclamation, flood control or drainage district, or other public agency created by any State, shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress for the purpose of conveying the same to the United States free of cost, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of War may, in his discretion,

> cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of War; *Provided*, that all expenses of said proceedings and any award that may be made thereunder shall be paid by such State, or reclamation, flood control or drainage district, or other public agency as aforesaid, to secure which payment the Secretary of War may require such State (etc.) to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced."

The State cites the "Convention between South Carolina and Georgia concluded at Beaufort, 1787" and known as the * Beaufort Convention (Hotchkiss' Statute Law of Georgia and State Papers, 1845, Appendix, page 915), which states that the Commissioners, in "establishing and permanently fixing a boundary" between the said states, have agreed (Artle 1):

> "reserving all islands in the said rivers Savannah and Tugalo to Georgia."

Statement

This is a case in which the State of Georgia voluntarily submitted to the jurisdiction of the District Court for the Southern District of Georgia its claim of sovereignty over certain lands known as Barnwell Island, ** now or formerly an

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* Quoted and confirmed in *Georgia v. South Carolina*, 257 U. S. 516 at page 519.

** A witness for Mr. Pinckney testified (R. 181: "there is a little stream there in high water, but in low water you can walk right across it."

island or islands in the Savannah river and its claim of proprietary right therein as ungranted land (R. 33, 34 & 35).

It did this by intervention in support of a motion for a new trial made by the United States in a suit for the condemnation of a permanent easement therein for spoilage use by the U. S. Corps of Engineers.

The evidence in the district court showed (R. 78) that the lands had been subjected to governmental use in connection with river and harbor improvement as early as the year 1883, in which year dams erected by the U. S. Corps of Engineers aggregating 1,200 feet in length, were closed, thereby connecting said lands (then islands in the Savannah River) to the South Carolina shore. There is no evidence that the land has been improved by anyone other than the U. S. Corps of Engineers.

In the condemnation suit filed in the district court, the State of Georgia, the State of South Carolina, certain officials of both states, E. B. Pinckney of Savannah, Georgia, and other individuals, addresses unknown, were cited to appear. (R. 2).

The only defendant to make appearance was E. B. Pinckney who moved the court to dismiss the action on the ground that the lands involved were in the State of South Carolina and therefore without the jurisdiction of the court (R. 8).

The comment of the court was as follows (R. 12):

". . . We are not deciding any boundary lines between the states. There is a tract of land out there in the river and the District Attorney says that the State of Georgia owns it and the suit should be brought here in this court. The other side

says it belongs to South Carolina and that the suit should be brought over there. Now, what difference does it make? The government is going to take the property and they are going to pay the owner."

Counsel for Mr. Pinckney stated he wanted the land condemned in South Carolina as "a matter of convenience," (R. 12), since the government was condemning about 6,000 adjoining acres in a proceeding in Charleston, South Carolina, and he represented all the owners. The court seemed impressed (R. 20, 30, 33, 66) by the desirability, thus presented, for a consolidation of the suits.

The court then heard evidence to the effect that Mr. Pinckney claimed to have paid taxes on the land to Beaufort County, South Carolina, and that the land was now joined to the South Carolina mainland. The District Attorney read into the record the pertinent part of the Beaufort Convention (R. 29) and later (R. 76) introduced sundry maps.

The court then ruled (R. 30):

". . . I still don't see any necessity of this case. The government is going to take the property and pay for it, whether it is in Georgia or in South Carolina. I am going to decide with South Carolina. You can take your order."

The Attorney General of the State of Georgia, being informed of this outcome, joined by intervention with the United States in a motion for a new trial, submitting the claims of the State of Georgia to the jurisdiction of the court and thus, perhaps, removing the element of triviality ("much ado about nothing" R. 33) which the court had so far found the jurisdictional question invested with.

Its intervention was granted (R. 36).

Subsequent to this intervention affidavit evidence was informally submitted (R. 82) to the court by Mr. Pinckney and later confirmed by stipulation to which the State was not a party (R. 86), which attempted to make a showing of prescriptive right on behalf of the State of South Carolina in the lands here involved and of acquiescence on the part of the State of Georgia in the assertion of such rights. Without further hearing, the district court by a judgment dated October 28, 1953 (R. 65; Pet. 9) held that this showing of prescriptive right and of acquiescence was sufficient for it to declare Georgia divested of its sovereignty.

Upon appeal the court below found (Pet. 21) "There is, there can be, no doubt that the land here involved is in the State of Georgia," and that therefore condemnation proceedings had been properly brought and erroneously dismissed.

The petition for certiorari asks the Supreme Court to review that finding.

Argument

Since the lower court refers (Pet. 18) to the affidavit of the sheriff of Beaufort County as "the only identifiable evidence to which the trial judge referred," in applying the principles of prescription and acquiescence to this case, the State of Georgia submits that it is of paramount interest to examine that affidavit for its sufficiency as evidence of South Carolina's assertion of dominion, and of Georgia's acquiescence in the loss of its sovereignty, over the lands involved.

For unless the Supreme Court finds in that affidavit, or

elsewhere in the record, a sufficient basis for the application of the principles of prescription and acquiescence to this case, the petition for certiorari makes out no case for a hearing.

The State submits that the facts averred in the affidavit are of astonishing frailty as a foundation for the application of the principles invoked.

Sheriff McTeer's affidavit states (Appendix, p. 10) that from the time of his induction into office in 1926 until the repeal of the Volstead Act (December of 1933), which is to say for a period of some six or seven years, he had "gone upon the land in search of law violators and has there destroyed numerous distilleries." He does not state that he did so with notice to or knowledge upon the part of *any* officer of the State of Georgia. This allegation, therefore, completely fails as a showing of acquiescence on the part of anyone.

Sheriff McTeer's affidavit further states (p. 11) that several years later (in 1935), together with a deputy of his office, he "went upon this land and seized same," taking possession thereof in the name of the County of Beaufort and State of South Carolina, upon a warrant of execution for non-payment of taxes against same, and that the lands were sold, first to the Forfeited Land Commission of South Carolina and, subsequently, to claimant * E. B. Pinckney. Again, there is no allegation that this, or any of this, was with the knowledge of, much less the acquiescence by, any official of the State of Georgia.

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* (This is the only evidence before the trial court other than claimant Pinckney's own statement that he has paid taxes on the land, that claimant Pinckney has anything even purporting to be color of title to Barnwell Island).

We then come to the part of the affidavit (p. 11) which apparently *attempts* to make a showing of "acquiescence"—of a sort. Two instances are recited of the arrest *by unnamed police officers of the City of Savannah*, of individuals for whom the deponent had sworn out warrants in South Carolina for crimes which deponent says were committed on Barnwell Island, the first crime being for the shooting of claimant E. B. Pinckney there (this was ten years *before* Pinckney claims to have had color of title) and the second for stealing claimant Pinckney's hogs from the island (four years *after* he claims color of title).

Since the affidavit is silent on the subject of verbal notice to these unknown policemen whose acquiescence, for and on behalf of the State, is to change its boundaries and divest it of its proprietory rights, we must turn to the warrents to determine if *they* give any notice that the crimes had been committed on the lands known as Barnwell Island, or, for that matter, (assuming a familiarity with the terms of the Beaufort Convention on the part of Savannah policemen) on any islands (now or formerly) in the Savannah River. A copy of the warrat for the arrest of the men who were subsequently convicted of having shot claimant Pinckney appears on Record page 58. It states that the crime was committed "in Beaufort County in the State aforesaid" (South Carolina). Nothing more as to locale. The warrent for the arrest of the (convicted) thieves of claimant Pinckney's hogs appears on Record page 61. It recites that the crime was committed "in the State aforesaid" (South Carolina). Nothing more.

Upon analysis, therefore, this affidavit of Sheriff McTeer's, with its collateral documents, cited by the trial judge as the principal evidence supporting his application of the principles

of "prescription and acquiescence in determining the boundary lines between the States" is totally devoid of any showing of "acquiescence" on the part of Georgia, and as for prescription, the affidavit fails to show that *South Carolina* had ever asserted any claim to the lands, but merely shows that both the Sheriff and Mr. Pinckney had performed certain acts on the presumption that the land was in South Carolina.

The court below ruled that the evidence before the district court failed to make out a case for the application of the principles invoked, citing *Arkansas v. Tennessee*, 310 U.S. 563, 60 S. Ct. 1026, 84 L.Ed. 1362; also *Missouri v. Kentucky*, 11 Wall 395, 402-403, to the effect that the principles of prescription and acquiescence are applicable in re-establishing the boundaries between states when, and only when, supported by a sufficient basis of facts.

Conclusion

There is no error in this decision of the Circuit Court of Appeals, and nothing appears in the petition and brief of petitioners for certiorari to induce this Court to exercise its jurisdiction in the matter.

Respectfully submitted,
STATE OF GEORGIA
EUGENE COOK, Attorney General

By *Thomas H. Gignilliat*
Deputy Assistant Attorney General
Counsel, Savannah District Authority

APPENDIX

EXHIBIT "A"

(attached to the judgment of the district court dated Oct. 28, 1953)

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT

Personally appeared before me J. E. McTeer who, upon being duly sworn, says:

1. That he is, and for many years has been, the duly elected and qualified Sheriff of the County of Beaufort, in the State of South Carolina having first entered into the duties of such office on the 16th day of February, 1926 and having served continuously from such time until today as such officer.

2. That he is familiar with a tract of land, formerly in the County of Beaufort, now in the County of Jasper since 1950 by Act of the South Carolina Legislature, commonly known as "Barnwell Island."

3. That from the 16th day of February, 1926 aforesaid, when deponent first entered into the duties of the office of Sheriff aforesaid, he exercised the duties of such office upon this land. That during the period of time when the Volstead Act was effective this land was a notorious site for the manufacturing of illegal whiskey and on many occasions dating back to the first year of his office, he has gone upon this land in search of law violators and has there destroyed numerous illegal distilleries.

4. That to his knowledge this tract, though termed "Barn-

well Island," has not been an island in the true meaning of the word since 1926, that prior thereto he had no knowledge of the tract.

5. That on the 6th day of October, 1935 deponent, together with a deputy of his office, went upon this land and seized same, taking exclusive possession thereof in the name of the County of Beaufort and State of South Carolina, upon a warrant of Execution for non payment of taxes assessed against same; that thereafter on the sales day of February, 1936, the said tract was sold before the Court House door at Beaufort County Court House, Beaufort, South Carolina to satisfy such execution; the high bidder at such sale being the Forfeited Land Commission of Beaufort County, South Carolina.

6. That thereafter on the 16th day of February 1940 deponent executed a deed of this tract to the said Forfeited Land Commission; and that on the 6th day of January 1942 he, together with other members of the said Forfeited Land Commission executed a deed of this tract to E. B. Pinckney.

7. That shortly after the 23rd day of June, 1932, deponent was notified that E. B. Pinckney had been shot on Barnwell Island; that deponent, together with deputies of his office, went to this tract of land in an effort to find out who had shot Pinckney; that his investigation revealed that Louis Williams and Willie Warring were the persons who had shot Pinckney and that these persons resided in the City of Savannah, Georgia; that as a result of this investigation deponent advised E. B. Pinckney to appear before Magistrate J. F. Coburn of Yemassee Township, Beaufort County, South Carolina for the purpose of swearing out a warrant for the arrest of these persons; this was done and deponent took such warrant to the officers

of the City of Savannah ,a political subdivision of the state of Georgia, who aided him in apprehending Louis Williams and Willie Warring. That after their arrest, in the City of Savannah, by City Police Officers, Louis Williams and Willie Warring confessed their crime, waived extradition and were removed to the Beaufort County Jail by deponent. That subsequently on the 28th day of November, 1932, in the presence of deponent, these defendants plead guilty in open Court, before His Honor M. M. Mann, Presiding Judge of the 14th Judicial Circuit at Beaufort County Court House, to the crime of Assault and Battery with intent to Kill E. B. Pinckney, and were sentenced by Judge Mann on the same day, as follows:

> The judgment of the law and the sentence of the Court is that you Willie Warring be confined in the State Penitentiary or on the Public Works of Beaufort County for a period of three (3) years AND
>
> The judgment of the law and the sentence of the Court is that you Louis Williams be confined in the State Penitentiary or on the Public Works of Beaufort County for a period of eight (8) years.

3. That on or about the 12th day of March, 1946, deponent received word that hogs had been stolen from E. B. Pinckney on Barnwell Island, that deponent sent his deputy, O. C. Michael, to investigate and as a result warrants were sworn out before Magistrate Cooler of Beaufort County and subsequently Daniel W. Bee and Westley Stobert were arrested by Georgia officers and turned over to deponent in the City of Savannah, Georgia. That these two men, Daniel W. Bee and Westley Strobert, in the presence of deponent plead guilty before His Honor J. Henry Johnson, Presiding Judge of the

14th Judicial Circuit at Beaufort County Court House to the crime of Grand Larceny and were sentenced by Judge Johnson on the 25th day of June, 1946, as follows:

> The judgment of the law and sentence of the Court is that you Westley Strobert and you Daniel W. Bee be confined in the State Penitentiary or on the Public Works of Beaufort County or in the Jail of the said County for a period of eighteen (18) months.

9. That as an officer of the County of Beaufort and of the State of South Carolina he did exercise the powers of his office over the tract of land known as Barnwell Island in every respect with the knowledge, acquiescence and aid of the officers of Georgia from 1926 to 1950 and that no question as to his jurisdiction has ever been raised to his knowledge.

(s) J. E. McTEER,

Sworn to before me this
5th day of May, 1953.
Randolph Murdaugh, Jr. (LS)
Notary Public for South Carolina.
Endorsement
C A 678
Judgment
Filed in office October 30, 1953
Margaret Clarke
Chief Deputy Clerk